

## EXHIBIT J

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IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA  
  
W. A. DREW EDMONDSON, in his )  
capacity as ATTORNEY GENERAL )  
OF THE STATE OF OKLAHOMA and )  
OKLAHOMA SECRETARY OF THE )  
ENVIRONMENT C. MILES TOLBERT,) )  
in his capacity as the )  
TRUSTEE FOR NATURAL RESOURCES )  
FOR THE STATE OF OKLAHOMA, )  
 )  
Plaintiff, )  
 )  
vs. ) 4:05-CV-00329-TCK-SAJ  
 )  
TYSON FOODS, INC., et al, )  
 )  
Defendants. )

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VOLUME I OF THE VIDEOTAPED  
DEPOSITION OF ROGER OLSEN, PhD, produced as a  
witness on behalf of the Defendants in the above  
styled and numbered cause, taken on the 10th day of  
September, 2008, in the City of Tulsa, County of  
Tulsa, State of Oklahoma, before me, Lisa A.  
Steinmeyer, a Certified Shorthand Reporter, duly  
certified under and by virtue of the laws of the  
State of Oklahoma.

## A P P E A R A N C E S

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1 analysis in this case?

2 A Yes, I do.

3 Q Okay. Do you agree, Dr. Olsen, that the

4 scientific method -- you're familiar with the

5 scientific method; correct?

10:26AM

6 A Yes, sir.

7 Q Okay. Do you agree that the scientific method

8 required the Motley Rice experts to be open to the

9 conclusion that sources other than poultry were

10 responsible for the contamination alleged in this

10:26AM

11 case?

12 A Yes.

13 Q Okay, and do you agree that to be

14 scientifically defensible, it is important that

15 CDM's sampling approach in this case be set up to

10:26AM

16 capture sufficient data to evaluate contamination

17 from sources other than poultry litter?

18 A Yes.

19 Q Okay, and you collected 89 edge of field

20 samples in areas where you believed you would find

10:26AM

21 the impact of poultry waste; correct?

22 A That's both poultry and cattle waste. As we

23 know, there's cattle on all those fields and so

24 those were collected, any cattle waste that ran off

25 of that field, too.

10:27AM

1 Q Let me back up the train for a second and make  
2 sure I understand. Are you telling the court, Dr.  
3 Olsen, that the contamination that you see in the  
4 edge of field samples, the 89 edge of field samples  
5 that you've listed under poultry on Table 6.4-2A 10:27AM  
6 could come from cattle as well as poultry?

7 A There is potential that there's some cattle in  
8 it. It's -- in my opinion in my evaluations it's  
9 insignificant compared to poultry.

10 Q How many of those 89 edge of field poultry 10:27AM  
11 samples are also contaminated with waste from  
12 cattle?

13 A I did not try to document that. I mean, we  
14 looked at the chemical contamination and verified  
15 that cattle contamination in runoff is distinct from 10:27AM  
16 poultry contamination, and if the cattle  
17 contamination would have been there in a significant  
18 quantity, it's distinct enough we would have seen  
19 it. So that relates back to my opinion that we  
20 would have seen the impact of cattle waste based 10:28AM  
21 upon the sampling that we did, both the edge of  
22 field and in the environment. If it's a major  
23 source, we would have picked it up.

24 Q Well, did you see?

25 A What's that? 10:28AM

1 Q Did you see it?

2 A We saw it in a few samples, but it was not  
3 major enough to create its own distinct signature in  
4 the basin.

5 Q Well, how many of the 89 samples did you see 10:28AM  
6 the effects of cattle in your analysis?

7 A It was not dominant in any of those samples.

8 Q Was it present in all the samples?

9 A I don't know. I didn't look specifically, but  
10 it wasn't a dominant signature that was created in 10:28AM  
11 those runoff at all.

12 Q What do you mean by dominant?

13 A It wasn't the major composition of the waste  
14 source at all. It wasn't identified as a major  
15 component or signature component at all in those 10:29AM  
16 edge of field samples.

17 Q What do you mean by major?

18 A Dominant, you know, scientifically it's  
19 greater than 50 percent of composition, but these  
20 compositions were -- you know, I never did try to 10:29AM  
21 put a number with it, but based on my mass balance  
22 calculations, we can go through there parameter by  
23 parameter but, you know, for copper, it's going to  
24 be a very minor percent. I think I calculated  
25 typically less than 1 percent, if any, would be 10:29AM

1 related to cattle, you know. There just isn't any  
2 copper in cattle waste. The phosphorus, you know,  
3 it may range from, you know, 10 to 15 percent in  
4 those samples, but in my opinion, that's an  
5 overestimate of how much phosphorus is really from 10:29AM  
6 the cattle in those waste samples.

7 So, you know, there's a whole section on my  
8 evaluation of how much mass would actually be in  
9 those types of samples, and that's why we did the  
10 synthetic leachates, to try to figure that out, but 10:30AM  
11 it was a very small fraction, you know, typically  
12 less than 10 percent, except for some of the  
13 bacteria. Those were higher. You know, those were  
14 in the 30 to 40 percent.

15 Q Dr. Olsen, if you now concede that some of the 10:30AM  
16 edge of field samples are cross contaminated with  
17 cattle manure, then why did you portray them in  
18 Table 6.4-2A under the heading poultry edge of  
19 field?

20 MR. PAGE: Object to the form. 10:30AM

21 A I did not say they were cross contaminated. I  
22 said they were -- potentially contained some minor  
23 parts of cattle.

24 Q How is that different from cross  
25 contamination? 10:30AM

1 A We didn't contaminate them -- we didn't cross  
2 contaminate them by any sampling procedure or  
3 anything at all. Cross contamination is usually  
4 related to a sampling procedure that you've added  
5 something that you weren't supposed so. In the 10:31AM  
6 scientific literature, that's what cross  
7 contamination would be.

8 Q Well, my question took us off track. Let me  
9 see if I can get us back where we were.

10 A That's all right. 10:31AM

11 Q Dr. Olsen, you do concede that some of the  
12 edge of field samples on Table 6.4-2A that you have  
13 described as poultry contained concentrations of  
14 each or some of these parameters that actually  
15 derive from cattle manure? 10:31AM

16 A Potentially very small portions. Those are  
17 mostly poultry, and that's what was documented in  
18 the field. We did not try to document cattle on the  
19 field. I'm just saying there's a potential that  
20 some of that had minor parts of cattle in those 10:31AM  
21 samples.

22 Q So given that acknowledgment, Dr. Olsen, are  
23 the 89 edge of field samples that you've described  
24 as poultry representative of the impacts of just  
25 poultry or poultry and cattle? 10:32AM

1 A They're representative mostly of poultry.

2 Some of them may have some cattle impact, but as I  
3 described in there and other experts have described,  
4 it's an extremely minor part of that contamination.

5 Q All right. Dr. Olsen, with respect to Table 10:32AM

6 6.4-2 where you compare 89 edge of field samples  
7 that you have labeled as poultry with two cattle  
8 impacted edge of field samples, do you believe that  
9 that comparison is sufficiently robust to draw

10 scientifically valid conclusions, 89 versus two? 10:32AM

11 A I did not make those types of comparison.

12 This is just reporting the data.

13 Q I believe you told me that Motley Rice first  
14 collected these two cattle edge of field samples in  
15 the spring of this year; is that right? 10:33AM

16 MR. PAGE: Object to the form.

17 A I don't think Motley Rice collected these  
18 samples.

19 Q Oh, thank you. I believe you told me that CDM  
20 personnel working under the direction of Motley Rice 10:33AM  
21 collected the cattle edge of field samples in March  
22 of 2008; is that right?

23 MR. PAGE: Object to the form.

24 A Again, we weren't working under the direction  
25 of Motley Rice. You know, it was Lithochimeia 10:33AM